

Draft

# Transportation Enhancement Activities Program

in the

Transportation Equity Act for the Twenty-first Century (1998-2003)

## Guidelines for Applicants to Regional Transportation Planning Agencies



California Department of Transportation

[www.dot.ca.gov/hq/TransEnhAct/](http://www.dot.ca.gov/hq/TransEnhAct/)

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## Section A - About the Program

### About These Guidelines

These guidelines are intended to assist agencies that will implement projects to apply for transportation enhancement activities (TEA) funds through the Regional Transportation Planning Agencies (RTPAs). They explain how enhancement activities are nominated, funded, and administered. This is not a grant process, it is a competitive process for federal-aid funds.

These guidelines are one of four sets of guidelines for TEA funds for the six-year period from 1998 through 2003. Regional Transportation Planning Agencies receive 75 percent of the TEA dollars in California (\$270 million). Each Region receives a TEA share by formula. The other 25 percent goes to the state (\$92 million).

The other three sets of state guidelines are for:

1. Caltrans projects (\$40 million), and
2. Conservation Lands [Acquisition] projects (minimum \$6 million) selected by Caltrans and the Resources Agency, and
3. State Environmental Enhancement projects (minimum \$20 million) (not to be confused with the state-funded Environmental Enhancement and Mitigation Program) selected by the Resources Agency.

### Key Points

- + This is a reimbursable program,
- + A local funding share (match) is required in each phase of the project; administering agencies must commit to cover cost increases if the project turns out to be underfunded;
- + Organizations may nominate projects, in partnership, through a public agency that is willing and able to take responsibility for carrying out and maintaining the project;
- + Improvements to private property and commercial facilities are not eligible;
- + Projects must comply with federal environmental requirements and with other federal regulations, as outlined in the Local Assistance Procedures Manual.

- + Suggested minimum project size is \$100,000 in federal funds, making the minimum overall project cost approximately \$114,000. Regional agencies may consider stand-alone projects of unusual merit in the \$50,000 - \$100,000 range, and work of any size that will be added into a federal transportation improvement contract.
- + Generally, this is a capital improvement program; it is not for planning, maintenance, equipment or operations.

### *Program Overview*

California will receive approximately \$60 million per year for six years (\$360 million total) under the Transportation Equity Act for the Twenty-first Century (TEA-21). This represents a 10 percent set-aside of one of the TEA-21 programs, the Surface Transportation Program funds. This money is available only for transportation enhancement activities.

Procedures and requirements for developing federal-aid projects are substantially more involved in time and money than the requirements for claiming state funds. Administering agencies must follow the requirements of title 23, United State Code. These are contained in the Local Assistance Procedures Manual, accessible from the internet at: [www.dot.ca.gov/hq/LocalPrograms/public.htm](http://www.dot.ca.gov/hq/LocalPrograms/public.htm).

The Manual is also available in hard copy for \$32 from the Caltrans Publications Unit, 1900 Royal Oaks Drive, Sacramento, California 95815 (Phone: 916-445-3520). Other manuals that may apply to a specific project are Right of Way: Procedures for Developing Local Federal-Aid Highway Projects, Encroachment Permits, or Environmental Analysis: Procedures for Developing Local Federal-Aid Highway Projects. In addition, training is sometimes available to public agencies for federal-aid projects through the California Technical Assistance Program. For details, see the UC Berkeley Institute of Transportation Studies website at: [www.its.berkeley.edu/techtransfer/shortcourses.html](http://www.its.berkeley.edu/techtransfer/shortcourses.html).

For additional information about applying for TEA funds, see the TEA website at [www.dot.ca.gov/hq/TransEnhAct/](http://www.dot.ca.gov/hq/TransEnhAct/).

### **Vision**

Transportation enhancement funds are to be used for transportation-related projects that enhance quality-of-life, in or around transportation facilities. Projects must be over and above required mitigation and normal transportation projects, and the project must be directly related to the transportation system.

The program should have a quality-of-life benefit while providing the greatest benefit to the greatest number of people.

Transportation enhancement activities are a means to integrate more creatively and sensitively transportation facilities into their surrounding communities. What distinguishes transportation enhancement activities from other worthwhile “quality of life” and environmental activities is their potential to create a transportation experience that is more than merely adequate. At the same time they may protect the environment and provide a more aesthetic, pleasant and improved interface between the transportation system for the communities and people adjacent to transportation facilities. Doing this will require expanded partnerships on all levels.

### **Public Participation**

TEA program decisions must be made in an open public decision process, with an opportunity for parties interested in the TEA program to present comments.

Interested parties and proponents of transportation enhancement activities are invited to submit project ideas for application through their local public agencies to their respective Regional Transportation Planning Agencies (RTPAs). A list of RTPAs will be included in the TEA website: [www.dot.ca.gov/hq/TransEnhAct](http://www.dot.ca.gov/hq/TransEnhAct).

Potential opportunities for public comment:

- + Adoption of the Federal Transportation Improvement Programs (FTIPs)
- + Comments on Regional Transportation Plans prior to their adoption.
- + RTPA application-scoring teams, mostly in larger regions.
- + Comments on environmental document draft.

A Transportation Enhancement Activities Advisory Council to Caltrans was established in July 1993 to be an ongoing vehicle of public participation in program implementation. It exists to identify issues and communicate program changes to Council members' respective agencies or organizations.

### **Programming Cycles 1998-2003**

Regional TEA projects will now be programmed at the regional level in Local Assistance, rather than at the state level in the State Transportation Improvement Program, as they were in the previous three cycles.

Regional Transportation Planning Agencies (RTPAs, Regions) may program any type of eligible TEA projects on their own choice of time schedule, programming policies, application forms, and number of programming rounds.

Most regions will have at least two TEA cycles, one committing one-third to one-half of the regional TEA share by 1999 and a second one by about 2001. Smaller regions with less than \$1 million in TEA share may choose to program all in one single round.

Each RTPA may choose its own deadline for TEA applications. The Federal Highway Administration and Federal Transit Administration must approve projects in the Federal State Transportation Improvement Program (FSTIP) before they may start.

Regions retain and may reprogram TEA shares if new TEA projects in their region subsequently fail.

### **RTPA Exchange of TEA Funds**

Small Regions (up to 200,000 population) that decide not to use their full TEA share may exchange federal TEA funds to the state for state funds on an annual basis (California Transportation Commission action 10/98). These TEA funds will be added into the state TEA share. Other larger Regions that do not have statutory authority for this exchange may trade TEA funds among themselves. Regions are required to inform the Commission and Caltrans after such trades have been made.

Small Regions may only exchange all or a part of their federal fiscal year 1998 and 1999 TEA funds to the state during the period from October 1998 through March 1999. Subsequent exchanges will be done annually, following distribution of annual federal local assistance apportionments.

### **Remaining Projects from Earlier TEA Cycles**

The Commission and Caltrans will fund all delivered TEA projects from the first three cycles (1996 State Transportation Improvement Program [STIP]). Projects from the 1996 STIP not deliverable (authorized to proceed with construction) or not delivered by September 2000 will be unprogrammed; the funds will be rescinded.

The Region retains the programming capacity, and may replace the failed TEA project(s) with new TEA projects, or may exchange or trade TEA funds. Regions may supplement existing (1996 STIP) TEA projects with additional TEA funding, through their TEA programming process.



## **Program Procedures**

Regions must provide Caltrans with certain minimum information relating to all TEA projects:

- + Two copies of the application for projects to be programmed, so Caltrans, on behalf of Federal Highway Administration, can review for TEA eligibility before a TEA project is amended into the Federal State Transportation Improvement Program (FSTIP), and can keep program administration files.
- + The updated regional mailing list, periodically, so Caltrans can keep a current statewide mailing list for guidelines.
- + The regional schedule for TEA programming cycles at least two months in advance of the due date for applications. Caltrans will post this information on the TEA website. (Any region that has already issued a call for project before the adoption of these guidelines may continue on its present schedule.)
- + A current contact person responsible for TEA programming.

This information can be sent to Marsha Mason, TEA Branch Chief, Caltrans, 1120 N Street, M.S. 28, Sacramento, California 95814

## **Nominating Projects**

Applicants send in the application to the Regional Transportation Planning Agency on the RTPA's application form. Regions may use the model TEA application form and the model TEA scoring criteria at their option.

Applicants must request an application from the Regional Transportation Planning Agency. Deadlines and contacts will be published in the Caltrans website at [www.dot.ca.gov/hq/TransEnhAct/](http://www.dot.ca.gov/hq/TransEnhAct/).

Applicants should send four (4) copies of the application to the Regional Transportation Planning Agency. It can take three to six months between the application deadline and when the project can start.



## Section B - Eligibility

### Administering Agency Eligibility

Projects shall be nominated by the agency that will be administering the project and taking responsibility for maintaining it. In addition, the administering agency must be capable of entering into a master agreement with Caltrans and must be determined to be capable of implementing the project by the Caltrans District Local Assistance Engineer.

This may include the Regional Transportation Planning Agencies (RTPAs, Regions) and other federal, state, and local public agencies, i.e. Regents of the University of California, a county, city, city and county, special district, public authority, transit operator, transportation commission, county transportation authority or joint powers authority. A joint powers authority must be able to commit the resources of the member agencies.

Administering agencies have contractual responsibility for carrying out to completion the enhancement project in accordance with federal, state, and local laws and regulations.

Administering agencies often have partners in bringing forward enhancement projects. These partners may be non-profit organizations that wish to be a part of implementation or maintenance, public agencies that are too small to meet the requirements of obtaining a master agreement with Caltrans, or agencies that have minimal staff to administer a federal-aid project. Others may be partners in funding only. No matter if partners are involved, the administering agency is the one entity responsible for implementing the project and maintaining it for the life of the project.

Federal and state agencies may administer transportation enhancement activities projects. The agency must have statutory authority to charge on a reimbursement basis.

### Project Eligibility

All projects selected by the Regions will be reviewed by Caltrans Headquarters TEA Program staff for eligibility. During its review, Caltrans will ask at least the following:

NOTE: This section will be completed after Federal Highway Administration issues its guidance on eligibility.
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***“What is the direct relationship to the surface transportation system?”***

Projects must have at least one direct relationship to the surface transportation system. This relationship may be one of function, proximity, or impact. For example,

- + A bikeway is a functional component of the intermodal transportation system.
- + Removal of outdoor advertising in the viewshed of a highway is justified in light of its proximity. (Proximity can be confusing because any project appears eligible by virtue of being near a roadway, however, there will be no tenuous or contrived relationships. When the relationship is by proximity, how does the activity significantly enhance the transportation experience?)
- + Water pollution control alongside an existing highway to protect or improve a drinking water supply would qualify based on the impact of the highway in terms of water pollution.

***“Is this over and above a normal project?”***

Enhancement activities are over and above normal transportation projects. Typically, a normal transportation project may include mitigation, standard landscaping, other permit requirements and provisions negotiated as a condition of obtaining a permit for a normal [non-enhancement] transportation project.

Transportation enhancement activities may not in themselves be routine or customary elements of transportation projects or mitigation for project impacts in compliance with the requirements of environmental, or other federal, state, or local laws, even if those aspects will otherwise constitute specified transportation enhancements. For example, mitigation banking is not eligible.

If this proposal is an enhancement to a larger project, check the environmental document for these items – Is the proposed enhancement part of the project description? Is it listed as mitigation? Is it a permit requirement? If so, the activity is not “over and above” a normal project. Permitting agencies might include federal agencies such as U.S. Forest Service, Bureau of Land Management, or U.S. Corps of Engineers. State permitting agencies might include State Department of Fish and Game. Regional permitting agencies might include a regional water quality control board.

***“Which category or categories encompass the transportation enhancement activities?”***

Projects must be selected from one or more of the twelve activities categories listed in U.S. Code 23 Section 101(a). If project eligibility in these twelve categories is not clear, the applicant will provide reasoning for including it, and a determination will be made by the RTPA, Caltrans, and Federal Highway Administration.

The twelve categories are:

1. Provision of facilities for pedestrians and bicycles
2. Provision of safety and educational activities for pedestrians and bicyclists
3. Acquisition of scenic easements and scenic or historic sites
4. Scenic or historic highway programs (including the provision of tourist and welcome center facilities)
5. Landscaping and other scenic beautification
6. Historic preservation
7. Rehabilitation and operation of historic transportation buildings, structures or facilities (including historic railroad facilities and canals)
8. Preservation of abandoned railway corridors (including the conversion and use thereof for pedestrian or bicycle trails)
9. Control and removal of outdoor advertising
10. Archaeological planning and research
11. Mitigation of water pollution due to highway runoff or reduce vehicle-caused wildlife mortality while maintaining habitat connectivity
12. Establishment of transportation museums.

Enhancements development must be for capital improvement; it cannot be a maintenance expenditure, project with a life of less than 5 years, or a one-time temporary improvement.

### **The Twelve Categories of Activities**

NOTE: This section will be completed after Federal Highway Administration issues its guidance on the four new areas of eligibility.

### **Eligible Costs**

The applicant must prepare an accurate cost estimate for proposed transportation enhancement activities.

TEA funds are for capital improvements. Feasibility study projects are ineligible, which of themselves provide no enhancement to the public. If a study shows the project to be feasible and a financial plan shows a credible source of

operating funds, capital phases may be eligible for enhancement funds. These include:

- + Preliminary engineering (including environmental studies),
- + Real property acquisition, and
- + Construction costs associated with conducting an eligible activity.

These funds are not to be used for program planning; however, they may be used for archaeological planning projects and bicycle and pedestrian safety and education activities.

Transportation enhancement activities are public funds. They are to be used for facilities that are in public ownership for public use. Improvements to private property and commercial facilities are not eligible, but may include properties for public use, owned by a public not-for-profit corporation. Example: café seating, childcare center and offices will in most cases be considered improvements for non-public benefit, and will not be eligible.

Activities that are not explicitly on the list of twelve categories might qualify if they are an integral part of a larger qualifying activity. For example, if the rehabilitation of a historic railroad station required the construction of new drainage facilities, the entire project could be considered a transportation enhancement activity. Similarly, environmental analysis, project planning, design, land acquisition, and construction activities incidental and necessary for implementing qualifying transportation enhancement activities are eligible for funding. For example, costs for environmental mitigation required for the enhancement project itself are reimbursable.

Project funding under the TEA program is not available for a non-applicant agency to perform its normal required review and permit functions.

Public agency work is eligible for reimbursement, as long as it is only for the project. Convict labor is not a reimbursable cost.

Only costs incurred after the project has "Authorization to Proceed" is eligible for reimbursement.

### **Local Funding Share (Match)**

- + Transportation Enhancement Activities are reimbursable projects. Applicants are expected to finance the project as it proceeds.
- + A match of approximately 12 match dollars to each 88 federal dollars for a total of 100 dollars is required in each enhancement project phase. Match may be local dollars, state dollars [including Environmental Enhancement and Mitigation program], non-transportation federal dollars, or private cash.

- + Up to 88 percent of the actual eligible expenditures – up to the ceiling of the federal funding share – will be reimbursed with each invoice.
- + Administering agencies may “overmatch” enhancement projects; that is, additional match dollars may be used in the transportation enhancement activity beyond the match requirement.
- + Because of federal policies and the possibility of cost overruns, administering agencies are encouraged to use the full extent of federal funds in the project. Agencies are discouraged from including more than 49 percent non-federal dollars in the total enhancement project cost.
- + Administering agencies must commit to cover any cost overruns if project turns out to be underfunded.
- + Any work not eligible for federal TEA reimbursement must be funded by other means by the project applicant, and cannot count as match.

### **Use of State Highway Account As Match**

Match may be provided from Caltrans State Highway Account funds for functional transportation projects and projects on the State Highway right of way. State Highway Account match may only be requested during the application process; it may not be requested after a project is programmed. For a project to receive State Highway Account funds, the project must be consistent with Article XIX of the State Constitution.

Section 323 of Title 23 allows right of way donations to count towards the local funding share of a project. Donations may be from private ownership to public ownership, or may be a contribution of public land for project purposes. Acquired right of way is not eligible as the match.

“Soft match” refers to instances where the value of activities accomplished away from the project are credited toward the non-federal share (match) of the project. An example of this is **the toll credit provisions of Section 1044 of the ISTEA**. Soft match generally is not eligible under current federal rules.

### **When Eligible Costs Can Be Incurred/Authorization to Proceed**

Each project has three possible phases: preliminary engineering, right of way [acquisition], and construction. An administering agency may proceed to incur reimbursable costs for a given phase only after it receives “Authorization to Proceed” from the Caltrans District Local Assistance Engineer. This occurs after:

- 1) Federal approval of the project in the FSTIP (Federal State Transportation Improvement Program), and
- 2) Submittal of "Request for Authorization" by administering agency and execution by Caltrans of the Authorization to Proceed.

Even though the project may proceed to incur costs, it may not be reimbursed until the agreements between Caltrans and the administering agency, and Caltrans and Federal Highway Administration are executed.

### **Preliminary Engineering – What is included/ what is excluded**

The preliminary engineering phase includes preparation of environmental documentation and preparation of construction documents (plans, specifications and cost estimates). Preliminary right of way work to provide data for environmental documentation may also be reimbursed from preliminary engineering phase moneys. See the Local Assistance Procedures Manual.

No costs beyond project-related costs are eligible. To be eligible for reimbursement, all project support costs, such as preliminary engineering, must be included in the programmed project cost. Costs can be shifted between phases. Mitigation costs, which arise in the course of the project, are covered up to the limit of the project cost programmed.

The administering agency may use its own workforce to do preliminary engineering work. Costs must be specifically and only for the project. It may also retain consultants after satisfying federal and state requirements for selecting consultants.

Proposed projects must obtain federal environmental clearance under the National Environmental Policy Act (NEPA) and other federal regulations. This process can be more costly and take longer than state clearance under the California Environmental Quality Act (CEQA). Projects utilizing state funds for match must comply with requirements of both NEPA and CEQA.

When reimbursement is requested for preliminary engineering, the administering agency is obligated to begin construction within ten years of the Authorization to Proceed. Regardless of the source of funds used to construct, federal funds used for preliminary engineering must be returned if construction does not start within ten years.

### **Right of Way (Acquisition) – What is included/ What is excluded**

Generally, the right of way phase is included when: utilities will be relocated; a purchase, easement, or lease is involved; an operating railroad facilities will be crossed or modified; an occupant or business will be relocated;



or an access issue is involved. Refer to the Local Assistance Procedures Manual.

Environmental analysis and public hearing requirements must be completed before starting most right of way activities. Acquisition projects often require special environmental studies, even when no development will occur on the site. For example, these might include archaeological resources or endangered species database searches.

When federal funds are to be used for reimbursement of right of way costs, federal authorization to begin work must be obtained in advance. All right of way activities must be performed in accordance with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act as amended, and in conformance with Caltrans Right of Way procedures for local federal-aid projects. Funds may be used for costs such as appraisals, surveys, legal matters, purchase, relocation assistance, or utilities relocation.

Federal funds may be used only for costs incurred after Caltrans approves the authorization to proceed (FNM76).

An offer to acquire property must be written and may be made only after appraisals are approved. Commencement of negotiations with property owners prior to Authorization to Proceed for right of way may jeopardize reimbursement eligibility.

Obtaining an option to purchase property is not considered to be an offer to purchase. Therefore, the requirement that no offer be made until after receiving environmental clearance and project approval will not be violated by obtaining an option.

Obtaining an appraisal at an early stage, for the purpose of estimating the capital cost of a project, will not bar Federal Highway Administration participation in project costs. Such an appraisal generally serves the same functions as the project estimates Caltrans prepares, providing cost projections used in planning, applying for funding, etc.

- + However, FHWA will not participate in the cost of an appraisal prepared prior to Authorization to Proceed.
- + Any appraisal used as the basis for an offer must be current. This means that if the original appraisal used for estimating purposes is so old as to be suspect as to its timeliness, it must be reviewed to determine if it is still current and if not, a new or revised appraisal must be obtained.

Private, not-for-profit organizations are not barred from receiving reimbursement of transportation enhancement activities funds for the purpose of acquiring real property rights. In addition, private not-for-profit organizations may take title to real property purchased with transportation enhancement activities funds, providing binding language in an appropriate document: a) requires continued use of the property as was proposed in the approved application; and b) provides for appropriate reversion of the property or repayment of public funds in the event that such use ceases.

Property purchased with transportation enhancement activities funds may be vested in an agency of the federal government to accomplish the purpose of the project, and this will not bar FHWA participation.

Situations where real property rights are purchased by a private not-for-profit agency first and then re-sold to a public agency with transportation enhancement activities reimbursement do not automatically disqualify the transactions from FHWA participation. There should be some assurance in these cases that the serial transaction format was not undertaken in collusion between the two agencies to circumvent the requirements of the Uniform Act. Short of evidence of collusion or circumvention these transactions will not be barred from FHWA participation.

In the event that the private, not-for-profit agency:

- a) Purchased the property rights prior to the award of enhancement funds, and
  - b) Seems to be making a financial gain on the property or has been using the property for some period of time in the same use as is proposed in the transportation enhancement activities application,
- the facts should be reviewed as early as possible with the Caltrans District Local Assistance Engineer and Right of Way Local Assistance Coordinator.

Situations where there is a coordinated plan for more than one agency to acquire substantially all of the properties contained in an area should be reviewed as early as possible with the Caltrans District Local Assistance Engineer and Right of Way Local Assistance Coordinator.

If the proposed project is for a scenic viewshed or other type of land preservation purpose, the issue of possible dollar savings should be investigated. Sometimes the proposed project can be satisfactorily carried out if a scenic easement is acquired rather than full fee title,. The amount of cost savings should be justified. For example, the continuation of livestock grazing land use may be compatible with the preservation of a scenic viewshed. Thus acquiring development rights from the property owner in the form of restrictive easement deed clauses, while allowing the owner to retain ownership rights with

permitted continuation of the existing limited agricultural usage is a proper application of the scenic easement concept.

When development will occur in the project, starting the right of way phase obligates the agency to begin construction within ten years of the federal approval date.

### **Construction – What is included/ What is excluded**

The construction phase includes advertising the project, awarding the contract and performing construction. See the Local Assistance Procedures Manual.

The local agency shall inspect project work to ensure compliance with the contract, and must provide a Resident Engineer who is a full-time public employee. A consultant on retainer as City or County Engineer is considered to be a full-time public employee.

Involving other organizations in the construction does not absolve administering agencies from complying with federal regulations such as for sole source contracts, prevailing wage, or disadvantaged business enterprise, as described in the Local Assistance Procedures Manual.

For construction, the contractor is to be chosen through a competitive bidding process. Otherwise, the administering agency must justify using its own workforce or doing the work by "sole source".

A comparison must be made between: a) doing work by the agency's own forces [or sole-sourcing the work to the partner], and b) by contracting out.

Section 108 (h) and Section 109 (h) of Title 23 encourages states to use youth conservation or service corps to enter into contracts and cooperative agreements to perform "appropriate transportation enhancement projects" as well as the "construction and maintenance of recreational trails." California Conservation Corps districts and Local Certified Conservation Corps are located throughout the state and applicants are encouraged to use them for construction work that does not require heavy equipment. This might include clearing and grubbing, planting and irrigation, and building rock walls.



## Section C - Competition and Approval Process

Local projects compete for funding at the regional level (Regional Transportation Planning Agency). Selected projects are programmed into the Local Assistance budget, and subsequently approved by Federal Highway Administration and Federal Transit Administration in the Federal State Transportation Improvement Program (FSTIP). The California State Legislature approves the local assistance budget annually, and the overall funding – but not the project-by-project funding – is allocated by the California Transportation Commission for administration at the project level by Caltrans.

### Eligibility Check

Regional Transportation Planning Agencies must have Caltrans check all projects for eligibility, preferably, before they are programmed into the Transportation Improvement Program.

All of the screening requirements must be met, where applicable. If a proposal meets all of the applicable criteria, it is eligible for consideration; if not, it will be dropped at this point. The screening requirements fall into seven groups:

1. Transportation Enhancement (does it meet the three primary requirements?)
2. Consistency with land use and transportation plans
3. Financial viability of the agency and the project
4. Project specific requirements - well-defined scope and schedule
5. Air Quality - no significant unmitigatable impacts
6. Americans with Disabilities Act (ADA) consistency, and
7. Secretary of the Interior's Standards and guidelines for Archeology and Historic Preservation and Secretary of the Interior's Standards for Treatment of Historic Properties.

### Approval at the Federal Level

Each Regional Transportation Planning Agency programs TEA projects into the Regional Transportation Improvement Program (RTIP). The RTIP projects are then approved by the Federal Highway Administration and the Federal Transit Administration in the Federal State Transportation Improvement Program (FSTIP).



## Section D - Project Administration/ Implementation

The Administering Agency implements the transportation enhancement activity project after the date it is approved for inclusion in the Federal State Transportation Improvement Program (FSTIP).

The following procedures are a *very* brief overview of the procedures described in the Caltrans Local Assistance Procedures Manual, available on the internet at [www.dot.ca.gov/hq/LocalPrograms/public.htm](http://www.dot.ca.gov/hq/LocalPrograms/public.htm). It is *imperative* for applicants to be familiar with these procedures and to be prepared to initiate and complete each project phase in accordance with federal and state laws and regulations, as extensive Caltrans oversight is not available. References are made in the following text to the Manual.

### *Implementation – A Phased Process*

Administration agencies must receive Authorization to Proceed before reimbursable work can begin in each phase (Chapter 3, “Project Authorization”). Enhancement projects have up to three phases; not all projects include all phases:

1. Preliminary engineering,
- 2) Right of way [acquisition], and
- 3) Construction.

The administering agency has one primary contact at Caltrans, a Local Assistance Engineer at the district where the project resides.

Briefly, the administering agency follows the Local Assistance Procedures Manual and works with the Local Assistance Engineer to fulfill these responsibilities:

- + Complete field review form, Chapter 7 “Field Review”
- + Execute agreements with Caltrans, Chapter 4 “Agreement”
- + Comply with all applicable federal, state, and local laws, rules and regulations, including environmental requirements in executing the project, Chapter 6 “Environmental Procedures”, and
- + Submit final reconciliation invoice and report (Chapter 17 “Project Completion”)

### **Preliminary Engineering Phase – Environmental Documentation**

TEA projects must meet the requirements of the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) and all other relevant federal environmental requirements. The District Local Assistance Engineer will coordinate the administering agency's early and ongoing contact with the Caltrans District Environmental Branch. The administering agency should complete the Preliminary Environmental Study form prior to contacting the Local Assistance Engineer about environmental documentation (Chapter 6, "Environmental Procedures").

The administering agency must comply with NEPA and other federal environmental requirements for all federal-aid projects. The other requirements include:

- + Each enhancement project must be evaluated to determine if Section 4(f) applies. Specific documentation and procedural requirements involving FHWA and other federal agencies must be followed. Section 4(f) of the Department of Transportation Act of 1966 applies when a proposed project will result in the use of land in a publicly owned park, recreation area, or wildlife and waterfowl refuge, or any significant historic site. Such a use may not occur unless there is adequate documentation that there is no prudent and feasible alternative to the use of the land in the property, and the action includes all possible planning to minimize harm to the property resulting from such use.
- + The administering agency will be responsible for assessing the potential for impact. Section 7 of the Endangered Species Act of 1973 requires federal agencies to consult with the U.S. Fish and Wildlife Service (National Marine Fisheries Service, if applicable) if a federally-funded project may affect a listed endangered species or critical habitat of an endangered species.
- + The administering agency will be responsible for preparing any documentation necessary to fulfill these requirements. Section 106 of the National Historic Act of 1966 provides authority for the protection of historic and cultural properties. Section 106 requires federal agencies to take into account the effects of any federally-funded project on National Register listed or eligible properties and consult with the State Historic Preservation Officer and the Advisory Council on Historic Preservation as appropriate pursuant to Title 36 Code of Federal Regulations 800. The "106" process can be completed in two months to two years or more, depending on the type of project, impact on the historic property and mitigation measures required to protect the historic property.
- + The administering agency is required to delineate wetlands, identify impacts and evaluate avoidance alternatives in the environmental phase of



project development. Executive Order 11990, "Protection of Wetlands", May 24, 1977 requires federal agencies to make a wetlands finding which determines whether or not there is a practicable alternative to construction located in wetlands, whether all practicable measures to minimize harm to the wetlands have been included in the federal action, taking into account all economic, environmental, and other pertinent factors that have a bearing on practicability. The administering agency is required to obtain a 404 permit prior to advertisement for construction. This law and the Section 404 permit program of the Clean Water Act of 1977 play an important part in the preliminary engineering phase. Timing of the field review should be arranged usually in late winter, spring, or early summer to identify wetlands plant species.

- + If a project encroaches into the floodplain, the administering agency is responsible for all studies necessary to support a finding, if necessary. Executive Order 11991, Floodplain Management, May 24, 1977 applies to projects in the floodplain. It requires that FHWA make a "Only Practicable Alternative Finding" if a federally funded project will encroach upon the base (100-year) floodplain.
- + The administering agency will be required to prepare any other studies necessary to comply with any other federal statutes or executive orders commensurate with the anticipated impacts of the project.

Required mitigation and permits will be incorporated into the final construction documents (plans, specifications and estimate). See Chapter 6 "Environmental Procedures".

### **Preliminary Engineering – Construction Documents – Design Standards & Reviews**

Instructions for preparing project construction documents are contained in Chapter 12 "Plans, Specifications and Estimates" in the Caltrans Local Assistance Procedures Manual.

As a minimum, transportation enhancement activities will use American Association of State Highway and Transportation Officials (AASHTO) standards where applicable, Caltrans standards for bikeways or when an encroachment permit is required on a Caltrans facility, and the California Uniform Building Code whenever it applies. The Caltrans Highway Design Manual, which contains bikeway design standards, is available on the internet at [www.dot.ca.gov/hq/oppd/hdm/hdmtoc.htm](http://www.dot.ca.gov/hq/oppd/hdm/hdmtoc.htm).

### **Right of Way (Acquisition) Phase**

The administering agency should contact Caltrans District Local Assistance prior to any right of way activities. Violation of right of way provisions can jeopardize federal funds for acquisition and construction.

Whenever federal funds will be used in any phase of the project, the acquisition of real property is subject to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended, no matter if carried out by private parties or by federal, state or local agencies.

When the acquisition of real property qualifies for the voluntary sale provisions of the Act, no relocation assistance payments are to be provided to the grantor(s) being displaced from the property because of the project.

Tenants being displaced because of the project are entitled to all relocation assistance benefits under the Act. Grantor(s) being displaced from the property due to the project are entitled to all relocation assistance benefits under the Act, when the acquisition does not meet the requirements for a voluntary sale.

Administering agencies should allow three weeks for acquisition checks to be put into escrow. The program supplemental agreement must give Caltrans the authority to pay into escrow, and indicate to whom the check should be made payable.

### **Construction Phase**

The construction phase steps generally include:

- + Authorization to Proceed, Chapter 15 "Advertise and Award Project"
- + Project advertising, Chapter 15 "Advertise and Award Project"
- + Bid opening, Chapter 15 "Advertise and Award Project"
- + Award, Chapter 15 "Advertise and Award Project"
- + Daily reporting, Chapter 16 "Administer Construction Contracts"
- + Labor compliance, Chapter 16 "Administer Construction Contracts"
- + Contract change orders, Chapter 16 "Administer Construction Contracts", and
- + Project completion and final invoicing, Chapter 17 "Project Completion".

### **Agreements**

Before funds can be reimbursed, the administering agency and Caltrans sign a master agreement and program supplemental agreement. The master agreement is a "blanket agreement" under which program supplemental agreements are executed specifically for each project. See Chapter 4 "Agreements" in the Local Assistance Procedures Manual.

The agreements are to ensure compliance with federal and state requirements. The master agreement includes the mechanisms whereby the administering agency refunds federal moneys to the state, should the agency and its consultants and contractors not be in compliance with these federal regulations and maintenance provisions.

### *Under-Expenditures and Over-Expenditures*

The federal cost programmed into the Local Assistance budget is a fixed amount. In general, cost increases must be covered with local funds.

Project cost changes can be expected due to environmental or design decisions, from contractor's bidding, or during construction.

If project costs exceed the amount programmed, the administering agency has at least one of the following options:

- + Fund the additional cost with available local resources,
- + Change the scope of the project to fit within the funding programmed (subject to the Federal Highway Administration, Regional Transportation Planning Agency and/or Commission and Caltrans approval),
- + Fund the additional cost in one project phase with identified savings from another project phase,
- + Re-advertise the project for new contractor bids,
- + Request additional funding from the Regional Transportation Planning Agency, or
- + Drop the project as no longer cost effective.

Caltrans approves minor changes in project scope or shift of funding between project phases. The Regional Transportation Planning also must approve any additional federal or state funding or substantive change in project scope.

The Commission, Caltrans and the Regional Transportation Planning Agencies encourage cost savings on projects to conserve funding so that more future projects can be funded in the program. Savings are retained in the Region in which they occur.

### *Audits and Records Retention*

The State may perform financial and compliance audits on administering agencies' expenditures. See Chapter 5 "Accounting/Invoices" in the Local Assistance Procedures Manual. Audits can establish that dollars must be paid back by the administering agency.

Audits are also performed on nonprofit institutions receiving federal funds from an administering agency. Consultants must agree to give access and assistance to state and federal auditors.

### *Invoicing*

For reimbursement, the administering agency submits monthly progress payment invoices for work completed on its letterhead to Caltrans Headquarters Local Assistance. As an option, the agency may wait and request full payment with a Final Invoice upon notification of project completion. See Chapter 5 "Accounting/Invoices" in the Local Assistance Procedures Manual.

### *Ribbon-Cutting*

Administering agencies are encouraged to have ribbon-cutting ceremonies with public officials in attendance, to acknowledge funding sources and promote the community benefits of the transportation enhancement project. For more information, contact Marsha Mason, Caltrans TEA, at 916-654-5275.

### *Maintenance and Monitoring*

Administering agencies are generally responsible for maintaining projects into the future. The agency pays for the maintenance effort unless subsequent agreement specifies otherwise. Maintenance costs are not eligible for enhancement funding.

Failure of an administering agency to maintain a project can result in Caltrans withholding approval for other federal-aid projects until the project is put back in proper condition.